

BOARD OF APPEALS CASE NO. 4900

BEFORE THE

APPLICANT: John P. Ward, Jr.

ZONING HEARING EXAMINER

REQUEST: Variance to permit an existing accessory structure within the required setbacks; 1654 Morse Road, Forest Hill

OF HARFORD COUNTY

HEARING DATE: June 30, 1999

Hearing Advertised

Aegis: 3/10/99 & 3/17/99

Record: 3/12/99 & 3/19/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant, John P. Ward, Jr., is requesting a variance to Section 267-26(C)(5)(a) of the Harford County Code, to permit an existing accessory structure within the required 10 foot side and rear yard setbacks.

The subject parcel is located at 1654 Morse Road in the Fourth Election District. The parcel is identified as Parcel No. 301, in Grid 4-D, on Tax Map 32. The parcel contains 2.03 acres, more or less, all of which is zoned Agricultural.

Mr. John P. Ward, Jr., appeared and testified that the subject parcel is improved by a single-family dwelling, a detached 4-bay garage, and a 16 foot by 24 foot shed which is under construction. Mr. Ward said that he was advised by the Department of Planning and Zoning prior to construction that he was required to maintain a 3 foot setback. After construction began, Mr. Ward said he was advised that he was required to have a 10 foot setback and that a "Stop Work" order was issued. The Applicant said that it was his understanding that a permit was not necessary for the construction of a barn and that if he was given the correct information, he would have maintained the required 10 foot setback, but he indicated now it would cause a hardship since the building is under roof and denial of the variance would cause practical difficulty.

Mr. Ward testified that topographic conditions on the parcel, as well as the well, septic and existing 4-bay garage and dwelling dictated the location of the building under construction. The Applicant said he did not feel the location of the accessory structure would adversely impact the neighborhood because of its location and the active farming activities in the immediate area.

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Ms. Dorothy Friend appeared and testified that the subject parcel was subdivided from other lands which she owned and that at the time of subdivision, the parcel contained a dwelling and a barn.

Mr. Tom Doyle appeared and testified that he lives at 3331 Kreitler Road and that he is the son-in-law of Dorothy Friend. The witness said he felt there were other areas which the Applicant could have used for construction of the building, but that the Ms. Friend has recently had the property surveyed and the survey stakes have been located at the corners of the Ward property. Mr. Doyle felt that if Mr. Ward would remove some firewood and other material placed on the adjoining property, approval of the variance would not adversely impact the neighborhood.

Mr. Richard Friend appeared and testified that he is the son of Dorothy Friend, the original owner of the property, and that he has recently had the property line between Ms. Friend's property and Mr. Ward's property surveyed, and it appears that the shed is 6 feet 3 inches from the side property line and 5 feet from the rear property line. Mr. Friend also indicated that if the Applicant will place the firewood on his property and not place any other material on the Friend property, he did not feel approval of the variance would impact adjacent properties.

The Staff Report of the Department of Planning and Zoning did not make a recommendation, but suggests conditions and provides:

"Based on the location of the building, the surrounding land uses, the size of the property (2.03 acres), the variance should have little or no impact on the intent of the Code and/or the surrounding land uses."

CONCLUSION:

The Applicant is requesting a variance to Section 267-26(C)(5)(a) of the Harford County Code, to permit a partially constructed accessory structure 5 feet from the rear property line and 6 feet 3 inches from the side property line.

Section 267-26(C)(5)(a) provides:

“Agriculture detached accessory structure: ten (10) feet from side or rear lot lines, except for lots with recorded easements. For lots with recorded easements, the setback shall be equal to the width of the recorded easement located on the lot.”

The subject parcel is not incumbered by a recorded easement; therefore, the required setback is 10 feet. The Applicant testified that when he inquired about constructing the accessory building, he was told he was required to maintain a 3 foot side and rear yard setback by the Department of Planning and Zoning. Subsequently, following an inspection, the Department determined that the Applicant was required to maintain a 10 foot side and rear yard setback.

The uncontradicted testimony of the Applicant was that other existing structures such as the dwelling and an existing 4-bay garage, septic area and septic reserve and well, and topographic conditions on the parcel dictated the location for the accessory structure. The Applicant said that based on the misinformation he was given, it would now cause practical difficulty on the Applicant if he is required to move the building. The Applicant said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because the accessory structure is located in an agricultural area.

The son of an adjoining property owner testified that he recently had the property line between his mother's parcel and the Applicant's parcel surveyed and that he was not opposed to the Applicant's requested, provided the Applicant kept all of his materials and firewood on his property.

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Another area resident who is the son-in-law of the adjoining property owner testified that the Applicant could have leveled an area in order to comply with the required setbacks and that if the Applicant would agree to keep his materials on his property, he would not further oppose the Applicant's request.

It is the finding of the Hearing Examiner that denial of the variance would cause practical difficulty on the Applicant, who inquired and was advised by the Department of Planning and Zoning that he was only required to maintain a 3 foot setback. It is, further, the finding of the Hearing Examiner that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code for the reasons set forth by the Applicant in his testimony.

Therefore, it is the recommendation of the Hearing Examiner that the requested side and rear yard variances be approved to allow the accessory structure to remain in its present location. The variances shall be subject to the following conditions:

1. The Applicant obtain all necessary permits and inspections.
2. The building shall not be used to house animals.
3. The building shall not be used for the storage of commercial vehicles and/or contractors' equipment.
4. The building shall not be used in the furtherance of a business.
5. The second floor of the existing barn shall be used for storage only and shall not be used for living quarters without obtaining permits and approvals.

Date JULY 20, 1999



L. A. Hinderhofer
Zoning Hearing Examiner